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Richard W. Wleking
Clerk, U.S. District Court
Northern District of California
San Jose

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN JOSE DIVISION

15 JDS UNIPHASE, a Delaware Corporation,

16 Plaintiff,

17 v.

18 SYNTUNE, AB, a Swedish corporation;
19 CYOPTICS, INC., a Delaware corporation

20 Defendants.

Case No.: **C 08 03498 JL**

**NOTICE OF PENDENCY OF OTHER
ACTION OR PROCEEDING**

21 Plaintiff JDSU Uniphase Corporation ("JDSU") hereby files this Notice of Pendency of
22 Other Action or Proceeding in order to notify the Court that this action involves a material part of the
23 same subject matter and substantially the same parties as another action pending in the United States
24 District Court for the Northern District of California, Southern Division.

25 1. **Description of the Other Action.** The other action pending in the United States District
26 Court for the Northern District of California, Southern Division, is *Bookham, Inc. v. JDS Uniphase*
27 *Corp. et al.*, Case No. 08-01275-RMW. The named parties in this other action are Bookham, Inc,
28 JDS Uniphase Corporation ("JDSU"), Agility Communications, Inc, and DOES 1-10. However,

1 Agility Communications was acquired and merged into JDSU and DOES 1-10 have not been
2 identified, so the true parties in interest are Bookham, Inc. and JDSU. In the action, Bookham seeks
3 a declaratory judgment that three patents owned by JDSU—U.S. Patent Nos. 6,658,035; 6,654,400;
4 and 6,687,278 (“the Patents”)—are not infringed, invalid, or unenforceable. Bookham also claims
5 intentional interference with economic advantage and unfair competition. JDSU has filed
6 counterclaims alleging that Bookham’s tunable laser products infringe the Patents. JDSU is seeking,
7 among other things, damages and injunctive relief for Bookham’s infringement.

8 **2. Relationship of the Other Action to This Action.** This Action involves a material part of
9 the same subject matter as the other action. In this action, the same three patents (the “Patents”) are
10 at issue. Here, JDSU alleges that those same Patents are being infringed by the defendants’ making
11 and selling of tunable laser products. Thus, this action and the other action both involve the same
12 three patents, the same patent holder (i.e., JDSU), similar tunable laser products, and similar types of
13 infringement allegations. In addition, as in the other action, in this action JDSU is seeking, among
14 other things, damages and injunctive relief for the infringement.

15 **3. Other Coordination to Avoid Conflicts, Conserve Resources, and Promote an Efficient**
16 **Determination of the Action.** Given the similarity of the subject matter involved in this action and
17 the other action, JDSU plans to request an order in the other action that the two actions are related
18 under Local Rule 3-12 (“Administrative Motion to Consider Whether Cases Should Be Related”) and,
19 at the appropriate time, to request consolidation of the two actions pursuant to Rule 42 of the
20 Federal Rules of Civil Procedure. JDSU submits that, given that this action and the other action
21 involve the same three patents and similar technology, consolidation of the two actions would reduce
22 the risk of conflicts (including the risk of inconsistent rulings), conserve resources, and promote the
23 efficient determination of the action.

1 Dated: July 21, 2008

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